

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Martin J. Walsh, U.S. Secretary of Labor,
in his official capacity,

Case No. 0:22-cv-00616 (KMM/DJF)

Plaintiff,

v.

ORDER

US Care PCA Agency, Inc., et. al,

Defendants.

This case is before the Court on Plaintiff Secretary of Labor's Motion for Default Judgment. (ECF 19). The Court held a hearing on the motion on January 10, 2023. For the reasons set forth below, as well as those discussed at the hearing, the Court denies the motion.

This case involves claims by the Secretary of Labor that defendants US Care PCA Agency, Inc., Muna Osman, and Shombe Hassam violated the terms of the Fair Labor Standards Act by failing to pay their employees overtime as required by law. The complaint was filed on March 9, 2022, the waiver of service was filed on May 25, 2022, and the defendants' answer was due on July 18, 2022. No answer was filed, and on September 14, 2022, the plaintiff filed for default, which was entered by the Clerk of Court. On November 16, 2022, the plaintiff moved this Court for default judgment, and the Court scheduled the hearing. On January 6, 2023, the defendant filed an answer and a few days later counsel for the defendant filed a notice of appearance.

The defendants did not timely respond to the Complaint, and are technically in default. Fed. R. Civ. P. 55(a). However, in this case the Court will exercise its discretion to set aside the default and deny the motion for default judgment. *See Thronndson v. Sargent's Nursery*, No. 22-cv-870 (KMM/DTS), 2022 WL 4125024, *2 (D. Minn. 2022) (explaining district court's discretion when ruling on a default judgment motion). Default judgments are generally disfavored and there is a “judicial preference for adjudication on the merits.” *Belcourt Pub. Sch. Dist. v. Davis*, 786 F.3d 653, 661 (8th Cir. 2015) (quoting *Johnson v. Dayton Elec. Mfg. Co.*, 140 F.3d 781, 784 (8th Cir. 1998)). And such judgments are rarely entered in cases that involve a “‘marginal failure’ to meet pleading or other deadlines,” as opposed to situations involving intentional delays or purposeful disregard of procedural rules. *Johnson*, 140 F.3d at 784.

The Court declines to enter default judgment at this time. Although the defendants engaged in this litigation very late, and well past the deadline set forth in the rules, counsel for the defendants explained at the hearing that they have limited financial resources and needed time to arrange counsel. Given the Court’s strong preference for deciding cases on the merits, rather than on procedural grounds, the Court denies the Motion, vacates the previous entry of default, and refers this case to the assigned Magistrate Judge for appropriate next steps. In addition, the Court encourages the parties to quickly communicate with the Magistrate Judge regarding scheduling a settlement conference.

Finally, the Court denies the plaintiff’s alternative request that the Court order the defendants to pay its attorneys’ fees for the instant motion as a sanction for failing to answer the lawsuit in a timely manner. In this litigation, the plaintiff seeks to recover funds from

the defendants for employees the plaintiff alleges were underpaid. The Court has determined that justice is not served at this stage by requiring the defendants to allocate some of their purportedly finite resources to pay such fees. However, as explained at the hearing, the defendants are advised that they are required to comply fully with the Rules of Civil Procedure and all court orders, and that failure to do so in the future may indeed be met with sanctions such as those requested by the plaintiffs.

I. Order

For the foregoing reasons, **IT IS HEREBY ORDERED that:**

1. Plaintiff's Motion for Default Judgment (ECF 19) is **DENIED**; and
2. Plaintiff's request that the Court order the defendants to pay its attorneys' fees for the instant motion as a sanction for failing to answer the lawsuit in a timely manner is **DENIED**.

Date: January 24, 2023

s/Katherine Menendez

Katherine Menendez
United States District Judge